



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	05/01/02	Bill No:	SB 1526
Tax:	Hazardous Substances	Author:	Romero
	Integrated Waste Management		
Board Position:	Neutral	Related Bills:	

This analysis will only address the bill's provisions which impact the Board.

BILL SUMMARY

This bill would require each person who generates hazardous waste in this state and submits or arranges for the submittal of that hazardous waste for disposal outside of this state to pay a disposal fee, as specified. This bill would also impose the integrated waste management fee, as specified, upon each operator of a transfer station based on the amount of all solid waste processed at the transfer station for disposal at an out-of-state disposal site.

ANALYSIS

Hazardous Substances Tax Provisions

Current Law

Under current law, Section 25174.1 of the Health and Safety Code requires each person who disposes of hazardous waste in this state to pay a disposal fee at a rate based on the type of waste disposed. Section 25174.2 provides that the base rate for hazardous wastes disposed of or submitted for disposal to land in the state is eighty-five dollars and twenty-four cents (\$85.24) per ton. Section 25174.2 also specifically provides that this base rate is the base rate for the 1997 calendar year. Beginning with calendar year 1998, the Board adjusts the base rate annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the consumer price index (CPI). The base rate for the 2002 calendar year is ninety-nine dollars and seventy-three cents (\$99.73) per ton. Section 25174.6 provides that all disposal fees are calculated using the total wet weight measured in tons, or fractions thereof, of the hazardous waste in the form in which the hazardous waste existed at the time of disposal, submission for disposal, or application to land using a land disposal method, as specified.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The disposal fee rates for the 2002 reporting period are as follows:

Rate per Ton	
Category	Disposal Fee Rate
Non-RCRA hazardous waste	\$16.27
- generated in a cleanup action	5.72
RCRA hazardous waste	40.29
- generated in a cleanup action and treated to be non-RCRA or nonhazardous	5.72
- treated to be non-RCRA or nonhazardous	16.27
Mining waste	12.96
Extremely hazardous waste	199.46
Restricted hazardous waste	199.46
Solid waste residues resulting from incineration or dechlorination	4.99

The disposal fee is paid to the Board and deposited into the Hazardous Waste Control Account in the General Fund.

Proposed Law

This bill would amend Section 25174.1 of the Health and Safety Code to require each person who generates hazardous waste in this state and submits or arranges for the submittal of that hazardous waste for disposal outside of this state to pay a fee for the disposal of hazardous waste to land, based on the type of waste placed in a disposal site. For hazardous wastes that are submitted for disposal outside of this state, the generator of the waste would transmit the fees for the disposal of those wastes to the Board and would be considered the taxpayer for such purposes.

This bill would amend Section 25174.2 to provide that the base rate, as adjusted annually by the Board, would apply to hazardous wastes that are disposed of or submitted for disposal outside of the state.

This bill would also amend Section 25174.6 to provide that the fee for wastes submitted for disposal outside of the state would be equal to 80 percent of the fee that would have been charged if the waste had been submitted for disposal in the state, subject to all of the following:

- The 5,000-ton cap, as specified for in-state disposal, would apply to the amount of waste submitted for disposal in each state outside of this state.

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- The classification of waste type for purposes of determining the fee for in-state disposal would be the classification applicable to the waste as it leaves this state for submittal for disposal outside of the state.

This bill would add Section 25174.8 to the Health and Safety Code to require the Board to deposit all amounts paid for hazardous waste submitted for disposal outside of this state into the Hazardous Waste Control Account (HWCA). The moneys deposited in the HWCA pursuant to out-of-state disposal of hazardous waste would be available for expenditure by the Department of Toxic Substance Control (DTSC) solely for the purposes of reimbursing state and local agencies for the costs incurred in providing regulatory oversight and carrying out other duties relating to hazardous waste that is ultimately disposed of outside this state.

Background

The Hazardous Substance Account (HSA) was created by Chapter 756, Statutes of 1981. In 1989, Senate Bill 475 (Chapter 269), in part, moved the Land Disposal fees from the Hazardous Waste Control Account (HWCA) to the HSA, set the base rate for the disposal fees at \$52.50, and added a new category for waste transported out of state.

In 1992, Senate Bill 1469 (Chapter 852) eliminated land disposal fees for hazardous waste going out of state.

Integrated Waste Management Fee Provisions

Current Law

Under current law, Section 48000 of the Public Resources Code imposes an integrated waste management (IWM) fee on each operator of a disposal facility based on the amount, by weight or volumetric equivalent, as determined by the California Integrated Waste Management Board (CIWMB), of all solid waste disposed of at each disposal site. The amount of the fee is established by the CIWMB at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but shall not exceed \$1.40 per ton. The fee is currently set at \$1.34 per ton of solid waste disposed.

The IWM fee is collected by the Board and, after payment of refunds and administrative costs of collection, deposited in the Integrated Waste Management Account.

Proposed Law

This bill would amend Section 48000 of the Public Resources Code to require each operator of a transfer station to pay a fee quarterly to the Board that is based on the amount, by weight or volumetric equivalent, of all solid waste processed at a transfer station for disposal at an out-of-state disposal site. The fee would be 80 percent of the fee that would have been charged if the solid waste had been disposed of in this state. This section would also be amended to provide that, commencing with the 2004-05 fiscal year, the CIWMB may adjust the fee once every three years to reflect increases and decreases in the CPI. A change in the fee for purposes of reflecting changes in the CPI would take effect six months or more after the date of approval by the CIWMB.

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The CIWMB would be required to notify the Joint Legislative Budget Committee, the Department of Finance, and the Legislative Analyst at least 90 days prior to a CIWMB hearing to consider a change in the fee.

This bill would additionally state legislative findings and declarations that the fees upon solid waste ultimately disposed of out-of-state are imposed solely to reimburse state and local agencies for their costs in regulating that waste and the amount of the fee is proportional to the costs imposed upon the state and local agencies for that regulation.

This bill would also add Section 48001.5 to require the Board to deposit all revenue from the fee imposed upon solid waste that is ultimately disposed of out-of-state in the Integrated Waste Management Fund. Upon appropriation by the Legislature, moneys in the account would be available for expenditure by the CIWMB only for the purpose of reimbursing local and state agencies, for the costs incurred in providing regulatory oversight and carrying out other duties relating to that waste that is ultimately disposed of at an out-of-state disposal site.

Background

Assembly Bill 939 (Chapter 1095, Statutes of 1989) added Section 48000 to the Public Resources Code to require each operator of a solid waste landfill to pay a quarterly fee to the Board based on all solid waste disposed of at each disposal site on or after January 1, 1990.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Senator Romero and is intended to provide funding to meet a zero-waste goal in California, as established by this bill.
2. **Summary of amendments.** The May 1, 2002 amendments to Board administered provisions correct an erroneous reference to the Health and Safety Code.
3. **Summary of April 15, 2002 amendments.** These amendments, among other things, change the accounts in which the Board would deposit the disposal and integrated waste management fees collected for hazardous and solid waste disposed of outside of this state. The April 15, 2002, version of the bill also revises the purpose for which moneys in each account are expended by the DTSC and IWMB, respectively.
4. **Disposal fee applicable to RCRA hazardous waste treated out-of-state.** Under current law, RCRA hazardous waste is defined to mean all waste identified as a hazardous waste under the Federal Resource Conservation and Recovery Act. With respect to RCRA hazardous waste, the disposal fee is reduced if the waste is 1) generated in a cleanup action and treated to be nonRCRA or nonhazardous, or 2) treated to be nonRCRA or nonhazardous. RCRA hazardous waste submitted for disposal in this state is generally treated by a treatment/disposal facility before that waste is disposed. If RCRA hazardous waste is considered treatable, the facility operator collects the reduced disposal fee for the hazardous waste submitted. The disposal facility is responsible for the full amount of the disposal fee if that waste is not treated prior to disposal.

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This bill provides in Section 25174.6(b)(2) that the classification of waste type for purposes of determining the fee for out-of-state disposal would be the classification applicable to the waste as it leaves this state for submittal for disposal outside of the state. Section 25174.6 further provides in subdivision (c) that the amount of the disposal fee is calculated using the total wet weight of the hazardous waste in the form in which it existed at the time of disposal, submission for disposal, or application to land using a land disposal method. As currently written, these provisions conflict with respect to the classification of waste type for purposes of determining the fee. Since it appears to be the author's intent that the classification of waste type for purposes of determining the fee for out-of-state disposal is the classification applicable to the waste as it leaves this state for submittal for disposal outside of the state, the following amendment is suggested:

25174.6. (b)(2) Notwithstanding subdivision (c), theThe classification of waste type for purposes of determining the fee, as required under subdivision (a), shall be the classification applicable to the waste as it leaves this state for submittal for disposal outside of the state.

5. **Double joining language may be necessary.** Assembly Bill 13 (Florez) would also amend Section 25174.1 of the Health and Safety Code. Assembly Bill 13, which is co-sponsored by the Board, would provide that a facility operator is relieved from the liability to collect the hazardous waste disposal fee if the charge is represented by an account that is found to be worthless and charged off for income tax purposes. As this bill progresses, the author may wish to consider adding double joining language to this measure.

COST ESTIMATE

The administrative workload associated with this bill would include identifying and registering new feepayers, informing the public and Board staff, reprogramming, developing new returns, mailing and processing additional returns and payments, conducting audits, handling appeals, processing claims for refund, performing collection activities, and answering inquiries from the public. A cost estimate of this workload is pending.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

The Board's Environmental Fees Division pursued an analysis in relation to the hazardous waste initiative proposed in the bill. The Division first calculated the annual NonRCRA and RCRA hazardous waste tonnage using total tonnage reported as submitted for disposal in-state. Staff then computed an estimate of reportable waste going out of California and then applied the respective rates as required by the bill. It was estimated that \$2.64 million in revenues would be generated if a fee were collected on hazardous waste sent for disposal out of state.

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Based on a study sponsored by the CIWMB in 2001 titled 'Equity in Collection of Existing Integrated Waste Management Fee', it was estimated that 750,000 tons of waste were exported to out of state landfills in 2000. The fee for solid waste disposal in this state is \$1.34 per ton. As of July 2002, the fee would be raised to a maximum of \$1.40 per ton as the regulation allows for this increase to generate revenues equivalent to, the approved budget for that fiscal year. The fee for out-of-state disposal would be 80 percent of the fee that would have been charged under existing law if the waste had been disposed in this state. Therefore, the out-of-state disposal fee amounts to \$1.12 per ton (80% * \$1.40). The possible revenue to be generated from out-of-state solid waste disposal is estimated to be \$0.8 million (750,000 tons * \$1.12 = \$840,000)

Revenue Summary

This bill would generate an estimated \$2.6 million for the Hazardous Waste Control Account and \$0.8 million for the Integrated Waste Management Account.

Qualifying Remarks

The Environmental Fees Division comment that other factors such as the estimated amount of wastes by category shipped out-of-state may be different than what has been assumed or that the effects of the legislation on the decision whether to send waste out of California may cause a change in actual out-of-state disposal activity. The revenue estimate does not reflect the potential impact of these changes in activity.

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